FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICATION NO.139 OF 2005
IN
FAMILY COURT APPEAL NO.69 OF 2005

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.M.R.Katikar for applicant.
Mrs.G.P. Mulekar for respondent.

CORAM : H.L GOKHALE &
SMT.R.S.DALVI, JJ.
DATED : 27th September 2005

P.C. :

1. Heard Mr.Katikar in support of this Civil Application. Mrs.Mulekar appears for the respondent.

2. This Civil Application prays for a stay of implementation and execution of the decree of the Family Court, which awards alimony at the rate of Rs.3,500/- per month to the respondent, which includes Rs.500/- towards an allowance under Section 125 of the Criminal Procedure Code. It also awards Rs.30,000/- towards her

medical expenses and a separate residence and a charge is directed to be created on the land of the applicant.

3. Mr.Katikar, learned Counsel appearing for the applicant, submitted that the learned Judge of the Family Court has erred in making this Award. The applicant is not in a position to pay Rs.3,500/- per month. At the most, he can pay Rs.500/- per month. He further submitted that an overall settlement can be worked out, provided the respondent is reasonable. In view of persuasion from the Court, the applicant was ready to revise the figure of settlement to Rs.One Lakh.

4. Mrs.Mulekar, learned Counsel appearing for the respondent, on the other hand, pointed out that the respondent

has suffered seriously during the short period of her marriage. It is her case that she was administered poison and had to undergo number of medical procedures and a further surgery is now expected. The respondent is of the view that at-least an amount of Rs.15 Lakhs should be provided for an overall settlement, including medical expenses which are necessary.

5. We have perused the impugned order of the Family Court. If a stay on this order is required, obviously, the monetary obligation thereunder will have to be honoured by the applicant. The medical expenses awarded are Rs.30,000/-. Inasmuch as the applicant was ready for an overall settlement of Rs.One Lakh, we asked Mr.Katikar as to whether the applicant will deposit this amount. Mr.Katikar stated that

the applicant is not in a position to deposit the amount for this purpose. In view thereof, it is not possible for us to accept the Application for stay. The same is rejected.

6. It will be open to the respondent to proceed to execute the order of the trial Court, although during the pendency of this Appeal.

7. Authenticated copy of this order be made available to the parties concerned.

(H.L.GOKHALE, J.)

(SMT.R.S.DALVI, J.)